

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED

JUN 28 2001

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                      DEPUTY CLERK

THE ESTATE OF ANITA ANN  
DULANEY, DECEASED, by and  
through its Administrator, Kevin L.  
Dulaney, KEVIN L. DULANEY,  
Individually and as Next Friend of  
Annaka Dulaney, Jaycie Dulaney and  
Abby Dulaney, Minors, and ANITA D.  
OLIVER

VS.

THE UNITED STATES OF  
AMERICA

CIVIL ACTION NO. A 00CA325-SS

MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, by and through their attorneys of record, file this Motion For Continuance, and would respectfully show the Court the following:

I.

This case is presently set for settlement conference on June 29, 2001. This is the first setting in connection with the settlement of this case, and there have been no previous motions for continuance by any party.

II.

On or about April 30, 2001, the above case settled, in its entirety. Since this case involves three minor Plaintiffs, a Joint Motion For Appointment of an Attorney Ad Litem was filed with the Court. On May 14, 2001, the Court entered its Order appointing Will Coates as the attorney ad litem

in this case. Information is still being gathered regarding the possible trust and/or investment arrangements for protecting and preserving the minor's funds.

### **III.**

Plaintiff Kevin Dulaney is in the active military, and has been overseas for several months. Because of this, the grandmother of the minor Plaintiffs, Plaintiff Anita Oliver, has been coordinating the above referenced discussions on behalf of the Plaintiffs. The attorney ad litem has talked with Anita Oliver regarding whether or not the money for the minor Plaintiffs will be placed in a trust or in a structured annuity; however, Anita Oliver indicated that she did not feel comfortable making that decision on her own. Kevin Dulaney has now returned to the States, and it is the parties belief that a decision concerning management of the funds for the minor Plaintiffs should be reached no later than Wednesday of next week. At that time the appropriate settlement and release papers can be drafted by the parties and placed in final form for a settlement conference.

### **IV.**

The parties respectfully request that the settlement conference which is currently set for June 29, 2001, be removed from its present setting in order to allow the parties additional time to complete the above matters, and that the settlement conference be re-set for the week of July 9, 2001.

### **V.**

This motion has been discussed with Defendant's counsel as well as with the attorney ad litem, and they have indicated they are in agreement with same.

### **VI.**

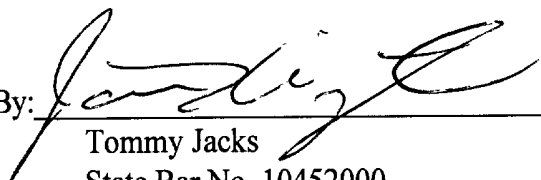
This motion is not filed solely for the purpose of delay but so that justice may be served.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiffs respectfully pray that this Motion be granted, that the settlement conference in this case be removed from the Court's June 29, 2001, docket, and that the settlement conference be re-set for a date during the week of July 9, 2001.

Respectfully submitted,

**MITHOFF & JACKS, L.L.P.**  
111 Congress Avenue, Suite 1010  
Austin, Texas 78701  
(512) 478-4422  
Fax: (512) 478-5015

By:   
Tommy Jacks  
State Bar No. 10452000  
James L. (Larry) Wright  
State Bar No. 22038500

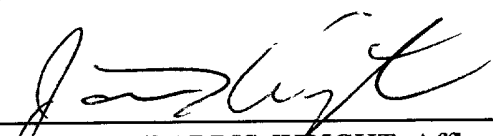
**ATTORNEYS FOR PLAINTIFFS**

**VERIFICATION**

STATE OF TEXAS           §

COUNTY OF TRAVIS       §

BEFORE ME, the undersigned Notary Public, on this the 28<sup>th</sup> day of June, 2001, personally appeared **JAMES L. (LARRY) WRIGHT**, who, being by me duly sworn on his oath deposed and said that he is counsel for the Plaintiffs, that he is familiar with the facts set forth in the foregoing Motion, that he has read the above and foregoing, that the allegations contained therein are within his personal knowledge and are true and correct.

  
JAMES L. (LARRY) WRIGHT, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this the 28<sup>th</sup> day of June, 2001, to certify which witness my hand and official seal.



Eddie Lou Hunt  
Notary Public, State of Texas

**CERTIFICATE OF SERVICE**

By my signature above, I hereby certify that a true and correct copy of the foregoing instrument was forwarded to counsel of record, R. Barry Robinson, Assistant U.S. Attorney, 816 Congress Avenue, Suite 1000, Austin, Texas, 78701, by fax on the 28<sup>th</sup> day of June, 2001.

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**VS.**

**THE UNITED STATES OF  
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**CIVIL ACTION NO. A 00CA325-SS**

**ORDER GRANTING MOTION FOR CONTINUANCE**

On this day came before the Court the Motion For Continuance filed by the Plaintiffs in this case. It appearing to the Court that such Motion has merit;

**IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED** that the Motion For Continuance be granted, and that the settlement conference in the above matter is hereby reset for July \_\_\_\_, 2001, beginning at \_\_\_\_\_ o'clock \_\_.m., in Courtroom Number Two, of the United States Courthouse, 200 West Eighth Street, Austin, Texas.

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JUDGE PRESIDING